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8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against,

Case No. 800-2015-015063

12 **JI BAIK KIM, M.D.**

DEFAULT DECISION AND ORDER

13 2405 West Eighth Street, Suite 101
14 Los Angeles, California 90057

15 **Physician's and Surgeon's**
Certificate No. C 40973,

[Gov. Code, §11520]

16 Respondent.

17
18 **FINDINGS OF FACT**

19 1. On February 2, 2016, Complainant Kimberly Kirchmeyer, in her official capacity as
20 the Executive Director of the Medical Board of California ("Board"), filed Accusation number
21 800-2015-015063 against Ji Baik Kim, M.D. ("Respondent") before the Board.

22 2. On June 13, 1983, the Board issued Physician's and Surgeon's Certificate number
23 C 40973 to Respondent. That license was in full force and effect at all times relevant to the
24 charges brought herein and will expire on October 31, 2016, unless renewed.

25 3. On February 2, 2016, Richard M. Acosta, an employee of the Board, served by
26 Certified Mail a copy of the Accusation in case number 800-2015-015063, to Respondent's
27 address of record with the Board, which was and is 2405 West Eighth Street, Suite 101, Los
28 Angeles, California 90057. A copy of the Accusation, the related documents, and Declaration of

1 Service are attached as Exhibit A, and are incorporated herein by reference.

2 4. Service of the Accusation by certified mail to the respondent's address of record was
3 effective as a matter of law under the provisions of Government Code section 11505, subdivision
4 (c).

5 5. On March 1, 2016, the aforementioned Accusation and related documents were
6 served again on Respondent by U.S. Certified Mail together with a Courtesy Notice of Default.
7 The related Courtesy Notice of Default, Declaration of Service and signed Certified Mail Receipt,
8 confirming service of the Accusation and the related documents, are attached hereto as Exhibit B,
9 and are incorporated herein by reference.

10 6. Government Code section 11506 states, in pertinent part:

11 "(c) The respondent shall be entitled to a hearing on the merits if the respondent files a
12 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
13 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
14 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

15 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
16 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
17 800-2015-015063.

18 8. California Government Code section 11520 states, in pertinent part:

19 "(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
20 agency may take action based upon the respondent's express admissions or upon other evidence
21 and affidavits may be used as evidence without any notice to respondent."

22 9. Pursuant to its authority under Government Code section 11520, the Board finds
23 Respondent is in default. The Board will take action without further hearing and, based on
24 Respondent's express admissions by way of default and the evidence before it, contained in
25 Exhibits A and B, finds that the allegations in Accusation No. 800-2015-015063 are true.

26 **DETERMINATION OF ISSUES**

27 1. Based on the foregoing findings of fact, Respondent Ji Baik Kim, M.D. has subjected
28 his Physician's and Surgeon's Certificate No. C 40973 to discipline.

2. A copy of the Accusation and the related documents and Declaration of Service are attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Medical Board of California is authorized to revoke Respondent's Physician's and Surgeon's Certificate for his failure to take a mental and physical examination as ordered by the Board under Business and Profession Code sections 820 and 821.

ORDER

IT IS ORDERED THAT

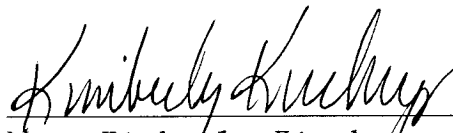
1. Physician's and Surgeon's Certificate No. C 40973, heretofore issued to Respondent Ji Baik Kim, M.D., is revoked.

2. Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on May 6, 2016.

IT IS SO ORDERED April 6, 2016

MEDICAL BOARD OF CALIFORNIA



Name: Kimberly Kirchmeyer
Title: Executive Director

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Attachments:

Exhibit A: Accusation No. 800-2015-015063, Related Documents, and Declaration of Service

Exhibit B: Courtesy Notice of Default, Declaration of Service and Certified Mail Receipt

Exhibit C: Certificate of Licensure

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO February 2, 2016
BY: [Signature] ANALYST

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 **In the Matter of the Accusation Against:**

Case No. 800-2015-015063

13 **Ji BAIK KIM, M.D.**
2405 West Eighth Street, Suite 101
Los Angeles, CA 90057

ACCUSATION

14 **Physician's and Surgeon's**
15 **Certificate No. C40973**

16 **Respondent.**

17 **PARTIES**

18 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
19 capacity as the Executive Director of the Medical Board of California, Department of Consumer
20 Affairs (Board).

21 2. On or about June 13, 1983, the Board issued Physician's and Surgeon's Certificate
22 Number C40973 to Ji Baik Kim, M.D. (Respondent). This license was in full force and effect at
23 all times relevant to the charges brought herein and will expire on October 31, 2016, unless
24 renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Medical Board of California (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 2227 of the Code provides that a licensee who is found guilty under the
2 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
3 one year, placed on probation and required to pay the costs of probation monitoring, or such other
4 action taken in relation to discipline as the Board deems proper.

5 5. Section 2234 of the Code, states:

6 “The board shall take action against any licensee who is charged with unprofessional
7 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
8 limited to, the following:

9 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
10 violation of, or conspiring to violate any provision of this chapter.

11 “(b) Gross negligence.

12 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
13 omissions. An initial negligent act or omission followed by a separate and distinct departure from
14 the applicable standard of care shall constitute repeated negligent acts.

15 “(1) An initial negligent diagnosis followed by an act or omission medically appropriate
16 for that negligent diagnosis of the patient shall constitute a single negligent act.

17 “(2) When the standard of care requires a change in the diagnosis, act, or omission that
18 constitutes the negligent act described in paragraph (1), including, but not limited to, a
19 reevaluation of the diagnosis or a change in treatment, and the licensee’s conduct departs from the
20 applicable standard of care, each departure constitutes a separate and distinct breach of the
21 standard of care.

22 “(d) Incompetence.

23 “(e) The commission of any act involving dishonesty or corruption which is substantially
24 related to the qualifications, functions, or duties of a physician and surgeon.

25 “(f) Any action or conduct which would have warranted the denial of a certificate.

26 “(g) The practice of medicine from this state into another state or country without meeting
27 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not
28 apply to this subdivision. This subdivision shall become operative upon the implementation of the

1 proposed registration program described in Section 2052.5.

2 “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and
3 participate in an interview by the board. This subdivision shall only apply to a certificate holder
4 who is the subject of an investigation by the board.”

5 6. Section 820 of the Code states:

6 “Whenever it appears that any person holding a license, certificate or permit under this
7 division or under any initiative act referred to in this division may be unable to practice his or her
8 profession safely because the licentiate's ability to practice is impaired due to mental illness, or
9 physical illness affecting competency, the licensing agency may order the licentiate to be
10 examined by one or more physicians and surgeons or psychologists designated by the agency.
11 The report of the examiners shall be made available to the licentiate and may be received as direct
12 evidence in proceedings conducted pursuant to Section 822.”

13 7. Section 821 of the Code states:

14 “The licentiate's failure to comply with an order issued under Section 820 shall constitute
15 grounds for the suspension or revocation of the licentiate's certificate or license.”

16 **CAUSE FOR DISCIPLINE**

17 (Unprofessional Conduct for Failure to Comply with Order of Examination)

18 8. Respondent is subject to disciplinary action under Code sections 821 and 2234 in that
19 he has failed to comply with an order issued pursuant to section 820 of the Code. The
20 circumstances are as follows:

21 9. On or about November 16, 2015, the Board issued an order (Order) requiring that
22 Respondent submit to a mental and physical examination, a true and correct copy of which is
23 attached hereto as Exhibit 1, and incorporated herein as if fully set forth.

24 10. Respondent has failed to schedule a mental or physical examination within the thirty
25 days provided by the Order.

26 11. Respondent has failed and/or refused to comply with the Order compelling him to
27 submit to a mental and physical examination.
28

1 **PRAYER**

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Medical Board of California issue a decision:

4 1. Revoking or suspending Physician's and Surgeon's Certificate Number C40973,
5 issued to Ji Baik Kim, M.D.

6 2. Revoking, suspending or denying approval of Ji Baik Kim, M.D.'s authority to
7 supervise physician assistants, pursuant to section 3527 of the Code;

8 3. Ordering Ji Baik Kim, M.D. to pay the Medical Board of California, if placed on
9 probation, the costs of probation monitoring; and

10 4. Taking such other and further action as deemed necessary and proper.

11 DATED: February 2, 2016


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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